

The Honorable Ronald B. Leighton

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
KENNETH WAYNE LEAMING,  
  
Defendants. )

NO. CR12-5039RBL  
  
UNITED STATES' SENTENCING  
MEMORANDUM

**I. INTRODUCTION.**

The United States of America respectfully recommends the Court impose a total sentence of 120 months in custody, to be followed by three years of supervised release, structured as follows: 120 months (the statutory maximum) for the false lien counts; six months for the harboring count; and 60 months for the felon in possession count, all to run concurrently.

Overwhelming evidence during the trial shows that Defendant is a determined, persistent offender who will never stop retaliating against government officials for the exercise of their duly appointed duties. Defendant has no remorse for any of his actions, and fully intends to continue to pursue the same course of conduct - this is clear from the defense he presented at trial, and in his filings since trial.

Equally important, Defendant illegally possessed a small arsenal of dangerous firearms, including a "street sweeper" style shotgun and an assault rifle, together with

1 badges and other police-style equipment. During trial, the Defendant repeatedly made  
 2 thinly veiled threats to engage in violence if he was punished for his actions in filing the  
 3 liens. Given his anti-government views, Defendant's possession of firearms is troubling.

4 In short, the most important of the factors under 18 U.S.C. § 3553(a) appears to be  
 5 the need to protect the public from future crimes of the Defendant, and the government  
 6 recommends that the Court sentence Defendant accordingly.

## 7 **II. BACKGROUND.**

### 8 **A. THE INCEPTION OF THE INVESTIGATION.**

9 As the Court doubtless recalls from the trial, this case arises out of a larger  
 10 investigation into the activities of a national "sovereign citizen" group with a significant  
 11 presence in Western Washington.

12 Local jurisdictions alerted federal law enforcement that they had received a  
 13 significant number of threats from members of this group. To summarize, members of  
 14 this group often engaged in so-called "freedom driving" driving about without  
 15 state-required licenses, either for their vehicles or themselves. When contacted by local  
 16 law enforcement, members of the group would bombard local officials (from the officer,  
 17 to local judges, to mayors and other members of local government) with frivolous liens,  
 18 false claims, and sometimes threats of violence. Many members of this same group had  
 19 previously come to the attention of federal law enforcement for engaging in various  
 20 fraudulent tax schemes, wire fraud schemes, and (occasionally) inappropriate  
 21 communications with various members of federal law enforcement and the judiciary. The  
 22 unifying thread in all of these incidents was the same - a purported belief that both state  
 23 and federal government entities were illegitimate.<sup>1</sup>

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24  
 25 <sup>1</sup> Based on these incidents, a broad-ranging investigation was launched into the  
 26 members of this group by the FBI, the IRS, and USMS, all acting in coordination with  
 27 this office. That investigation has led to the prosecution of a number of members of the  
 28 group, including *David Russell Myrland* (under CR11-0057RSM - prosecuted for  
 interstate threats, sentenced to 42 months); *Timothy Garrison* (CR11-248RSM -  
 prosecuted for various tax offenses, also sentenced to 42 months); and *Raymond Leo and*  
*Ute Cristine Jarlik-Bell* (CR11-5047RBL, various tax offenses - currently pending  
 sentencing after being convicted after a trial). All of whom had made various threats to

**B. IDENTIFICATION OF LEAMING AND STEPHENSON.**

Defendant Kenny Wayne Leaming (Leaming) was identified as part of the larger investigation. Leaming was already known to federal law enforcement, based on a prior conviction for operating an aircraft without a pilot's license. *U.S. v. Leaming*, CR05-5143FDB.

Mr. Leaming was also well-known as a long-time constitutionalist/sovereign citizen, who had a documented history of holding himself out as a law enforcement officer and/or a lawyer. He also was instrumental in founding the "County Rangers," the sovereign group's armed enforcement wing. Members of the County Rangers were issued realistic-looking badges and credentials - apparently procured by Mr. Leaming - were required to possess firearms as part of their duties, and held themselves out as law enforcement officers.

The government's interest in Leaming was heightened based on a search of another sovereign's home, Raymond Leo Jarlik-Bell. During a search of Jarlik-Bell's residence, federal agents discovered copies of liens that Leaming had filed with the Pierce County Auditor against a federal District Judge, an AUSA, and other federal agents and employees, all of whom were based in Washington DC, and all of whom were involved in the prosecution of a large wire fraud case in that jurisdiction. A Secret Service Agent, R.D., was one of those victims and testified at trial.

The investigation also established that Leaming had also filed liens against other federal officials. Most important, one of the liens was filed against the warden of the federal Bureau of Prisons (BOP) correctional institution in Phoenix, Arizona, and another against the former Director of BOP. Both of these victims testified at trial as well.

Those liens were filed on behalf of co-defendant David Carroll Stephenson. Stephenson was also well known to federal law enforcement, having previously been convicted in this Court of various tax related offenses. *U.S. v. Stephenson*,

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local government officials.

1 CR05-5158RBL. Stephenson was sentenced by this Court to 96 months, and, for a period  
2 of time, was held at FCI Phoenix.

3 Further investigation confirmed that Stephenson and Leaming had worked together  
4 to file the BOP liens. BOP investigators found numerous emails, jail phone calls, and  
5 letters between Leaming and Stephenson documenting their conspiracy to file the liens  
6 against the warden of FCI Phoenix and other BOP officials, all linked to Stephenson's  
7 incarceration.

8 In addition to the above, agents also discovered that Leaming had been mailing  
9 (but, to the best of the government's knowledge, not filing) various claims and liens  
10 against a Postal Inspector based in Arkansas, who was investigating and prosecuting a  
11 federal fraud case against two individuals, Timothy Donovan and Sharon Henningson.  
12 The significance of those claims became apparent soon after.

13 **C. EXECUTION OF SEARCH WARRANTS AT LEAMING'S RESIDENCE -**  
14 **ADDITIONAL CHARGES.**

15 Based on the probable cause set forth above, FBI agents obtained a search warrant  
16 for Leaming's residence in Spanaway on November 21, 2011. An arrest warrant, based  
17 on a complaint, was obtained that same day. The search warrant affidavit also sought  
18 authorization to search certain un-opened mail that Leaming had been observed dropping  
19 off at his post office (addressed to, among others, Chief Justice Roberts); Leaming's  
20 email account, used to communicate with Stephenson; and his computers.

21 During surveillance prior to executing the warrant, agents spotted a vehicle near  
22 Leaming's residence with out-of-state plates. A check showed the vehicle was registered  
23 to Donovan and Henningson, referred to above, who had since been charged federally and  
24 become federal fugitives. During the evening of November 21, 2011, agents contacted  
25 the occupants of the vehicle, found Donovan and Henningson inside, and arrested both on  
26 their federal warrants.

27 The search warrant was executed at Leaming's residence on November 22, 2011.  
28 Leaming was present and was arrested. During the search, agents found evidence that he

1 was, in fact, harboring Donovan and Henningson and that he knew each was a federal  
2 fugitive. In particular, a sometime resident of Leaming's home, Janice Bryson (who also  
3 testified at trial), told the agents that Leaming was in fact aware that Donovan and  
4 Henningson were fugitives. Mr. Leaming's actions in harboring these two individuals  
5 was charged in Count Four of the Indictment.

6 Immediately after execution of the search warrant, but before Leaming was  
7 transported from the scene, Agents asked Leaming questions about the presence of  
8 firearms for officer safety purposes. Leaming admitted that a number of firearms were  
9 present in the home. Agents indeed found a number of firearms during the search,  
10 including an AK-47 style assault rifle with a bayonet; several handguns (one of which  
11 was in a drawer of the desk Leaming was sitting at as entry was made); two other rifles;  
12 and a shotgun.

13 Leaming was transported to the FBI's offices and was advised of his *Miranda*  
14 rights. Post-*Miranda*, Leaming again acknowledged that he knew the firearms were  
15 present, but advanced some type of nonsensical, quasi-legalistic explanation as to why  
16 they were not, in fact, firearms. Mr. Leaming is, of course, a convicted federal felon as  
17 set forth above, and therefore is prohibited from possessing firearms.

18 Also found at Leaming's residence were numerous boxes of correspondence and  
19 legal paperwork documenting other apparent fraud schemes, voluminous correspondence  
20 with co-defendant Stephenson, and copies of the liens at issue in this matter. Agents also  
21 recovered law enforcement equipment, including light bars for vehicles, various badges  
22 and sets of credentials, and a box full of "County Ranger" badges.

#### 23 **D. PROCEDURAL HISTORY.**

24 Leaming was originally arrested pursuant to a complaint at the time of the search  
25 warrant. He was subsequently indicted, together with Stephenson, on January 26, 2012.  
26 Trial was continued multiple times, primarily at the request of the defense.

27 The government obtained a Superseding Indictment on February 6, 2013. The  
28 Superseding Indictment did not add any new counts or defendants. Instead, it made

1 certain slight technical and stylistic changes to the existing counts (i.e., adding the initials  
2 of the victims for the first three counts). The only truly new addition was a forfeiture  
3 allegation as to the weapons charged in Count 5.

4 Defendant Leaming filed a number of substantive motions through his then  
5 counsel, including motions to suppress and to dismiss, which were all denied. Leaming  
6 then obtained the Court's leave to proceed *pro se*. Leaming also filed numerous *pro se*  
7 motions, both when he was represented and after, all of which the Court denied.  
8 Stephenson filed a motion to sever, which the Court granted in part (bifurcating the felon-  
9 in-possession charge) and denied in part.

10 Trial was held the week of February 25, 2013. At trial, the government elected not  
11 to proceed with one charge (Count 6, the false securities count). After a five-day trial  
12 Leaming and Stephenson were convicted on all charges.

13 During the trial, Leaming repeatedly made statements referring to the (then recent)  
14 incident in Southern California, where a former police officer had started hunting down  
15 and murdering government officials the former officer felt had wronged him. Leaming  
16 would generally say something to the effect that it was better that he engaged in "seeking  
17 redress" from government officials by way of liens and other paperwork, as opposed to  
18 emulating the former officer and using violence.

19 This formulation was repeated often enough that the government believes it was a  
20 thinly-veiled threat. Leaming, in essence, engaged in "paper terrorism" against  
21 government officials. By these repeated statements, Leaming seemed to be saying that if  
22 he was not permitted to engage in that conduct, he may as well resort to violent acts of  
23 terror instead.

24 Since his conviction, Defendant has continued to file numerous, typically  
25 incomprehensible and/or nonsensical filings in this and other courts. These filings refer  
26 to various UCC instruments, typically claim the Court lacks jurisdiction over him based  
27 on a willful misunderstanding of the law, and claim that he is being held as a "slave."  
28 Leaming has attempted to sue at least one AUSA in the International Court of Justice, and

1 filed numerous monetary claims (often claiming that he should be paid in silver) against  
 2 BOP officials, agents, AUSAs, various judges, and the Ninth Circuit Clerk. He has also  
 3 filed numerous *pro se* civil proceedings and appeals in the Circuit. Most recently, he  
 4 filed complaints with the WSBA against one of the AUSAs, U.S. Attorney Durkan, and  
 5 this Court.

### 6 **III. SENTENCING GUIDELINES.**

7 The government concurs with the Probation Office's calculation of the Advisory  
 8 Guideline range in its entirety. After applying the Multiple Count Adjustments under the  
 9 Guidelines, Defendant is Total Offense Level 26, with a criminal history of III, for an  
 10 advisory Guideline range of 78 - 97 months.

11 The government notes that, while properly calculated, the advisory Guideline  
 12 range fails to adequately reflect Defendant's offense conduct. First, Defendant  
 13 committed multiple criminal offenses, which are essentially unrelated, except in as much  
 14 as they all spring from his disdain for government and the legal system at all levels.  
 15 However, he faces little to no additional jail time for these offenses due to the manner in  
 16 which the grouping rules apply. Second, as noted in the PSR (§ 96), Defendant's CHC is  
 17 probably understated at CHC III.

### 18 **IV. RECOMMENDATION AND JUSTIFICATION.**

19 The United States respectfully recommends a total combined sentence of 120  
 20 months, the statutory maximum for the false lien charges (Counts 1 - 3), 18 U.S.C. §  
 21 1521. The Court should also impose a sentence of six months for the harboring charge  
 22 (Count 4), and 60 months for the felon in possession charge (Count 5), all of which  
 23 should run concurrently.<sup>2</sup>

24 A sentence of this length is required by the need to protect the public from future  
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26 <sup>2</sup> Alternatively, the Court could impose a sentence of 60 months for the lien  
 27 counts; 10 months for the harboring a fugitive count; and 50 months for the felon in  
 28 possession count (all at or slightly above the top of the advisory range if calculated in  
 isolation), and run the sentences consecutively, which results in the same 120 month total  
 sentence.



1 crimes of this Defendant, which is the most salient of the sentencing factors in 18 U.S.C.  
2 § 3553(a) as applied to this case.

3 Defendant has spent much of his adult life engaged in the unauthorized practice of  
4 law, in itself a felony offense under state law. In doing so, Defendant variously portrays  
5 himself as an expert in law enforcement and/or as some type of legal genius - a “lawyer”  
6 but not an “attorney” as he explained at some (rather bewildering) length during the trial.  
7 Both self-portrayals are complete and utter fictions.

8 Defendant’s lack of any legal expertise has been on display in his repeated filings  
9 with this and other courts, and in his performance at his own trial. Defendant nonetheless  
10 has exploited the ignorance of others for his personal gain for years, taking money from  
11 form people to “help” them with their legal problems - but in reality he of course did no  
12 such thing.

13 This conduct, coupled with his complete disdain for all levels of government, leads  
14 directly to these proceedings. First, Defendant took money from the victims of a massive  
15 ponzi scheme prosecuted in Washington DC to “fix” their problems. Of course, as the  
16 case agent testified, there was nothing to fix - the government recovered almost all of the  
17 lost money, and most victims were made whole. Defendant nonetheless took money from  
18 these hapless individuals, essentially to interfere with the ongoing prosecution.  
19 Defendant ultimately filed liens against a federal district court judge, various AUSAs, and  
20 the case agent, who testified at trial.

21 Second, Defendant also filed liens for his good friend and “mentor” David Carroll  
22 Stephenson, to obtain revenge upon BOP officials who were merely executing this  
23 Court’s lawful sentence - a sentence both Defendant and Stephenson treated with  
24 contempt.

25 Third, Defendant harassed a Postal Inspector who was investigating two of  
26 Defendant’s “clients,” Donovan and Henningsen, and ultimately harbored and concealed  
27 them from arrest on federal charges.

28 Lastly, Defendant possessed numerous firearms, including a street-sweeper



1 | shotgun, an AK-47-style assault rifle, and a loaded handgun (in a drawer where he was  
2 | sitting as agents made entry), notwithstanding his prior felony conviction in this Court.  
3 | Defendant's possession of this small arsenal of weapons doubtless also grows from his  
4 | contempt for the rule of law and for government at all levels.

5 | Defendant's possession of firearms is particularly disturbing in light of several  
6 | facts. First is obviously his disdain for government. Second is his possession of various  
7 | items of police equipment, including numerous badges, light bars, and a Crown Victoria  
8 | sedan modified to appear to be a police vehicle. Last but not least is Defendant's  
9 | repeated invocation of the shooting of government officials in Southern California by a  
10 | disgruntled former police officer - which again appeared to be a veiled threat to engage in  
11 | violence himself if he is prevented from pursuing his "petitions for redress."

12 | Defendant is not going to stop engaging in criminal conduct. He has absolutely no  
13 | remorse for his behavior. Defendant's criminal history; his abysmal performance on  
14 | supervised release during his last contact with the federal criminal system; his behavior  
15 | leading up to and during trial; and his numerous filings since trial, all show that he will  
16 | continue to offend going forward. There appears to be no chance for rehabilitation.

17 | Accordingly, the government respectfully submits that a very long sentence is  
18 | necessary to adequately sanction Defendant, to protect the public from future crimes of  
19 | the Defendant, and to deter others associated with him. While a 120 month sentence is  
20 | lengthy for a 57-year old man, it should be noticed that (by his own admission),  
21 | Defendant's health has dramatically improved since he was taken into custody.

22 | For the same reasons, a period of supervised release is also necessary. Given  
23 | Defendant's history, the government respectfully submits that the Court should add the  
24 | following conditions of supervision, some of which were part of his last federal  
25 | judgment:

- 26 | • That the Defendant not engage in the practice of law, provide others with legal  
27 | advice, either for free or for compensation, or hold himself out as an attorney,  
28 | lawyer, or legal advisor of any type.

- 1 • That the Defendant shall not hold himself out as a police officer, officer of the  
2 peace, or other law enforcement officer of any type.

3 Lastly, the government asks the court to order the forfeiture of the firearms, as well  
4 as all police implements, badges, and Defendant's legal files, both in electronic and paper  
5 form, including the digital devices themselves. These items are all contraband and/or  
6 instrumentalities of the offense, and should not be returned to him under any  
7 circumstances.<sup>3</sup>

### 8 **V. CONCLUSION.**

9 For the reasons set forth above, the government respectfully recommends a total  
10 sentence of 120 months custody, to be followed by three years of supervised release.

11 Respectfully submitted this 20th day of May, 2013.

12 JENNY A. DURKAN  
13 UNITED STATES' ATTORNEY

14 /s/ Vincent T. Lombardi  
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27 <sup>3</sup> Alternatively, if the Court is inclined to order the return of any digital devices,  
28 the government respectfully submits that the Court should order that the digital devices  
hard drives be erased first.

CERTIFICATE OF SERVICE

I hereby certify that on May 20, 2013, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the defendant(s). I hereby certify I have served the defendant, Kenneth Leaming, to wit:

KENNETH LEAMING  
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